



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Northern Virginia Regional Office
13901 Crown Court
Woodbridge, VA 22193-1453
(703) 583-3800 fax (703) 583-3801
www.deq.virginia.gov

STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION ORDER BY CONSENT ISSUED TO

**City of Manassas/Virginia Municipal Electric Association
DEQ Registration No. 71977**

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 10.1-1316.C, 10.1-1307.D and 10.1-1309, between the State Air Pollution Control Board (SAPCB) and the City of Manassas/Virginia Municipal Electric Association (COM/VMEA), for the purpose of resolving certain alleged violations of the air permit and regulations as specified in SECTION C of this Order.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

- “Va. Code” means the Code of Virginia (1950), as amended.
2. “Board” means the State Air Pollution Control Board, a permanent collegial body of the Commonwealth of Virginia as described in Code §§ 10.1-1301 and 10.1-1184.
 3. “Department” or “DEQ” means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.

4. "Director" means the Director of the Department of Environmental Quality.
5. "Order" means this document, also known as a Consent Order.
6. "COM/VMEA" means City of Manassas/Virginia Municipal Electric Association located at 9898 Godwin Drive, Manassas, Virginia 20110.
7. "NVRO" means the Northern Virginia Regional Office of DEQ, located in Woodbridge, Virginia.
8. "Regulations" refers to the Regulations for the Control and Abatement of Air Pollution for the Commonwealth of Virginia.
9. "VAC" means Virginia Administrative Code.

SECTION C: Findings of Fact

The Virginia Title V Operating Permit for the COM/VMEA peaking electric power generation facility was issued on September 28, 2001. A Virginia Permit to Modify and Operate for the facility was issued on September 19, 1995, and modified October 20, 1995.

2. [Title V Permit Condition No. III.A.6., 9/19/95 Permit Condition No. 9 and 9 VAC 5-50-80 of the SAPCB's Regulations] Visible emissions from each engine shall not exceed twenty percent (20%) opacity except during one six-minute period in any one hour in which visible emissions shall not exceed thirty percent (30%) opacity, as determined by EPA Method 9 (reference 40 CFR 60, Appendix A). This condition applies at all times except during startup, shutdown and malfunction.
3. On three separate dates, three DEQ personnel conducted six Visible Emission Evaluations ("VEE's") in accordance with EPA Method 9 procedures at the facility on six different stacks. Each of the DEQ personnel who conducted the VEE's is certified as EPA Method 9 Visible Emissions Evaluators. Each of the six VEE's conducted indicate apparent non-compliance with the facility opacity limit. Five of the six VEE's indicated more than one mutually exclusive six-minute period in excess of 30 percent average opacity. The other VEE indicated more than two mutually exclusive six-minute periods in excess of 20 percent average opacity. A summary of the VEE results is presented in the table below.

Summary Results of July 2005 DEQ VEE's
at City of Manassas/VMEA

VEE Date	VEE Time Interval (EDT)	DEQ Stack No. / COM Stack No.	Max. 6-min. Opacity Avg.	2 nd Highest 6-min. Opacity Avg.
July 11, 2005	1615 – 1645	4 / COM 7	37.9	36.3
July 11, 2005	1700 – 1730	10 / VMEA 7	24.0	22.9
July 12, 2005	1630 – 1700	5 / VMEA 12	44.0	42.5
July 12, 2005	1630 – 1700	9 / VMEA 8	37.1	35.8
July 26, 2005	1405 – 1435	6 / VMEA 11	42.3	41.7
July 26, 2005	1405 – 1435	11 / VMEA 6	35.0	30.6

1 – Stack # 1 is closest to Godwin Dr. and Stack # 16 is farthest away from Godwin Dr.

COM/VMEA does not concur with the results of the VEEs conducted by the DEQ. COM/VMEA contends that EPA Method 9 can be affected by a number of factors including the potential influence of adjacent stacks when adjacent units are in operation, as they were during the DEQ VEEs. They further contend that these factors could have impacted the results of the VEEs conducted by the DEQ.

4. A meeting was held with COM representatives on July 29, 2005, to discuss the DEQ VEE test results and the history of the facility and ongoing investigatory efforts by the City and their consultant (Aegis Environmental) to reduce the opacity from their stacks. At this meeting, the City stated that their research had produced no fiscally feasible options for reducing opacity.
5. DEQ issued a Notice of Violation (NOV) to the City of Manassas Utilities Department, dated August 23, 2005, stating that the facility must respond within ten days to discuss the matter and arrange a meeting.
6. A meeting was held with COM and VMEA representatives on September 1, 2005, to discuss the NOV and COM/VMEA plan to return the facility to opacity levels that would be in compliance with State regulations and facility air permits. The ongoing investigatory efforts by the COM/VMEA and their consultant (Aegis Environmental) to reduce the opacity from their stacks was updated. A vendor has been identified that can provide a stack filter system that should reduce stack visible emissions to compliant levels.
7. DEQ received a letter on September 6, 2005, from the City of Manassas summarizing the September 1, 2005, meeting and presenting a "Proposed COM/VMEA Facility Visible Emissions Reduction Plan" (see Appendix A). The visible emissions reduction plan presents a pilot study, and upon successful completion, full scale installation and operation of the filter system by mid to late

May 2006. COM/VMEA estimates that the filter installation cost for all sixteen engines will be approximately \$820,000.

8. DEQ received a letter dated October 10, 2005, from the City of Manassas providing specific information on the CleanAIR filter system, a copy of a purchase order for the first unit to be installed, and an updated "Proposed COM/VMEA Facility Visible Emissions Reduction Plan".
9. A draft Consent Order was submitted to the COM/VMEA for review and comment on October 19, 2005.
10. The first CleanAIR filter unit was delivered to the facility and installed on Engine Exhaust Stack No. V12 on November 17, 2005.
11. On November 22, 2005, a meeting was held between COM/VMEA and DEQ where the pollution control equipment installation project status was updated and the draft Consent Order was discussed.
12. EPA Method 9 Visible Emissions Evaluations (VEE) were conducted on Stack No. V12 and V10 (no CleanAIR filter installed at the time) on December 7, 2005. DEQ was present and conducted simultaneous VEE's with the COM/VMEA consultant. DEQ VEE results indicated an average stack opacity of 0% for Stack No. V12 and 9% for Stack No. V10.
13. DEQ-NVRO received a letter dated December 21, 2005, from the law firm Spiegel & McDiarmid providing comments and suggested revisions to the Consent Order.
14. DEQ-NVRO Air Permitting received a letter dated January 6, 2006, from the City of Manassas in which the COM/VMEA stated that they believe no permit modification will be necessary for the installation of the pollution control equipment at the facility. DEQ-NVRO Air Permitting staff concurred that it did not appear that a permit modification will be required for the installation of the CleanAIR filter system at this facility.
15. DEQ requested and received an updated "Proposed COM/VMEA Facility Visible Emissions Reduction Plan" on February 17, 2006, from the City of Manassas which has been incorporated into the Findings of Fact and Appendix A of this Consent Order.

16. Eight additional CleanAIR filter units were installed on Engine Exhaust Stack No's. V-3 through V-10 by April 10, 2006. Three additional CleanAIR filter units were installed on Engine Exhaust Stack No's. V-1, V-2, V-11, and C-7 by April 14, 2006. The three remaining CleanAIR filters to be installed on Engine Exhaust Stack No's. C-8 through C-10 are on-site and anticipated to be installed by May 5, 2006.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §10.1-1316(C), the Board orders COM/VMEA, and COM/VMEA agrees, to perform the actions described in Appendix A of this Order. In addition, the Board orders COM/VMEA, and COM/VMEA voluntarily agrees, to pay a civil charge in the amount of One Thousand Four Hundred dollars (\$1,400.00). The civil charge is due within 30 days of the effective date of the Order. Payment shall be made by check payable to the "Treasurer of Virginia", delivered to:

Receipts Control
Department of Environmental Quality
P.O. Box 10150
Richmond, Virginia 23240

SECTION E: Administrative Provisions

The Board may modify, rewrite, or amend the Order with the consent of COM/VMEA, for good cause shown by COM/VMEA, or on its own motion after notice and opportunity to be heard.

2. This Order only addresses and resolves those violations specifically identified herein, including those matters addressed in the Notice of Violation issued to the City of Manassas Utilities Department by DEQ on August 23, 2005. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.

3. For purposes of this Order and subsequent actions with respect to this Order, COM/VMEA admits the jurisdictional allegations, factual findings, and conclusions contained herein, except as specifically noted in Section C.3.
4. COM/VMEA consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. COM/VMEA declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 9-6.14:1 *et seq.*, and the State Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by COM/VMEA to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. COM/VMEA shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. COM/VMEA shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. COM/VMEA shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.


Failure to so notify the Regional Director within 24 hours of learning of any condition above, which the parties intend to assert will result or has resulted in the impossibility of compliance, shall constitute a waiver of any claim of inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and COM/VMEA. Notwithstanding the foregoing, COM/VMEA agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to COM/VMEA. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve COM/VMEA from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

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(Signature page follows)

12. By its signature below, COM/VMEA voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of May 12, 2006.



David L. Paylor, Director
Department of Environmental Quality

COM/VMEA voluntarily agrees to the issuance of this Order

By: _____

Date: 5/5/06_____

Commonwealth of Virginia

City/County of Prince William

The foregoing document was signed and acknowledged before me this 5th day of
May, 2006, by Melissa M. Hush, who is
(Month) (Name)

Notary for the City of Manassas, on behalf of the City.
(Title)

Melissa M. Hush

Notary Public

My commission expires: October 31, 2009

APPENDIX A

The COM/VMEA shall perform the following actions:

- 1 Complete the installation of the remaining three CleanAIR filter units (already delivered and on-site) to be installed on Engine Exhaust Stack No's. C-8 through C-10 by May 12, 2006.
2. Conduct visible emissions estimations (VEE) on all sixteen engine exhaust stacks to demonstrate compliance with the permitted opacity levels by June 16, 2006. COM/VMEA will provide written notification to the DEQ of the anticipated test time and date as early as possible, but no later than one week prior to the actual test date. The COM/VMEA shall attempt to schedule the VEE testing for a warmer than average day to the extent possible. DEQ will allow the COM/VMEA the flexibility to move the actual testing date by a few days to accommodate anticipated weather patterns as long as DEQ is notified promptly of the change.

The evaluation is planned to consist of one 30-minute observation of each of the sixteen engine exhaust stacks by certified personnel in accordance with EPA Reference Method 9. If any 6-minute period at each of the sixteen tested stacks exceeds 20 percent opacity, then the observations for that stack shall be extended to a full 60 minutes. If any two 6-minute periods at a tested stack exceeds 20 percent opacity, or if any one 6-minute period at a tested stack exceeds 30 percent opacity, the COM/VMEA will proceed as per Condition III.C.3.a-d. in the Virginia Title V Operating Permit dated September 28, 2001 (Title V Permit). After completion of the testing, a written VEE report shall be submitted to the DEQ Air Compliance Manager within 30 days of VEE test completion.
